

# BuffaloNews.com



The U.S. Justice Department filed a broad lawsuit seeking to upgrade conditions at the Erie County Holding Center in downtown Buffalo.  
Buffalo News file photo

## Hochul, Collins spar over jail pact

By **Dan Herbeck**

Published: August 18, 2011, 12:36 PM

[9 Comments](#)

[Recommend](#)

4

Updated: August 18, 2011, 11:23 PM

The federal government has reached a "historic agreement" that will require Erie County to vastly improve its treatment of prisoners in the county jail and prison, U.S. Attorney William J. Hochul Jr. said on Thursday.

But Hochul took issue with County Executive Chris Collins' contention that the county saved local taxpayers "untold amounts of money" by fighting the feds' efforts to improve the facilities.

In fact, Hochul said, the county's legal battle against jail improvements cost "substantial amounts of money" to both county and federal taxpayers.

"Without question, substantial resources were required, which were not necessary," Hochul told The Buffalo News. "This entire situation could have been settled without litigation ... years ago."

Hochul referred to comments made on Wednesday by Collins as "spin."

The county executive was sharply critical of the federal lawsuit, saying his administration saved county taxpayers millions of dollars by fighting back against the feds in court.

"The [federal] government does not engage in spin. It engages in facts," Hochul said.

Hochul held a news conference to announce that the federal government and the county have agreed to a 38-page "stipulated order of dismissal" that should end a hard-fought federal lawsuit over jail and prison conditions.

The dismissal will not take effect until it is approved by U.S. District Judge William M. Skretny, who is handling the lawsuit that was filed in September 2009.

Hochul said it should never have been necessary for the federal government to file the lawsuit.

He said the Justice Department began investigating complaints about prisoner treatment in the two county facilities in 2007. He said "cooperative discussions" were being held with the county about correcting the problems.

"Then, in March of 2008, the county changed its position and stopped all discussions," Hochul said.

Collins took office in January 2008.

"At one time, all this was being worked out, amicably and cooperatively," Hochul said.

According to Hochul, the agreement requires the county to implement "broad and significant changes" that will give prisoners improved mental health care, medical care and "protection from harm."

He said the agreement requires the county to hire two jail consultants who will submit reports every six months. The reports will be scrutinized by the U.S. Justice Department, Skretny and the county.

If his office sees anything in the reports that causes concern, further legal action can be taken, Hochul said.

Collins, in a news conference scheduled shortly after Hochul spoke with reporters, said the stipulated order of dismissal "contains no findings of liability against Erie County" and "no finding that the county ever violated the civil rights of inmates."

He also portrayed the U.S. attorney as putting his own spin on the document.

"I believe he's probably embarrassed to have been part of a team that brought this frivolous, overreaching, improper lawsuit to begin with," Collins said of Hochul. "So he will spin it as best he can to try to exit stage left. The Department of Justice is probably on the bus out of town even as we speak."

County Comptroller Mark Poloncarz, a Democrat who is running against the Republican Collins in November, took Hochul's side in the dispute.

"It is ironic that only after losing round after round of arguments before the federal court did [Collins] decide to finally come to the table, and now he is attempting to take all the credit for resolving this matter," Poloncarz said. "If only Chris Collins had agreed to sit down at the table with the Justice Department 3 1/2 years ago, hundreds of thousands of taxpayer dollars would not have been wasted."

In addition to federal expenses for investigation and court costs, Hochul said the county had to have lost money when -- in late 2009 -- federal law enforcement officials began to cut back on its use of Erie County facilities to house federal prisoners awaiting trial.

He said the federal government stopped sending most of its prisoners to Erie County's jail because of concerns that prisoners' "basic constitutional rights" were being violated.

"Before we cut back, we had about 90 prisoners in [Erie County] facilities each day, and the county was charging us about \$96 each day for each prisoners," Hochul said. "We then began sending many of our prisoners to other counties."

Erie County Undersheriff Mark Wipperman told The News earlier this month that many federal agencies -- including the FBI and U.S. Drug Enforcement Administration -- were still keeping prisoners in the Erie County Holding Center "on a daily business."

Asked about the issue on Thursday, county officials called Hochul's statement "simply false."

"The county has not lost one dime of revenue related to the housing of inmates during this suit," Collins said in a written statement. "The Holding Center and correctional facility operate at maximum capacity and there was no lost revenue. The U.S. attorney and DOJ are well aware that the county operates at capacity. The statement is simply false."

Collins contended the county has been continuously working to improve the Holding Center, and that its decision to hire mental and physical health consultants was not done as a result of the federal lawsuit.

"The Department of Justice clearly has no role to play from this day forward," Collins said. "They cannot say otherwise. They are not in the position of approving any documents, any procedures. They do not have any oversight of this facility whatsoever."

The county executive also criticized the Department of Justice for framing allegations in the lawsuit as "facts."

The cost of not defending the county against what Collins termed its "intimidating investigations" would have been "staggering," he said.

"The fact is, when the dust settled, they couldn't substantiate any one of these supposed facts," Collins said. "This lawsuit never should have been filed."

News Staff Reporter Denise Jewell Gee contributed to this report.